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*RENEWABLE  
ENERGY  
PROGRAM*

**CALIFORNIA  
ENERGY  
COMMISSION**

Overall Guidelines

# Renewable Resource Trust Fund

Fifth Edition

GUIDEBOOK

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Gray Davis, Governor

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*These guidelines were formally adopted by the California Energy Commission on January 21, 1998, pursuant to Senate Bill 90 (Chp. 905, Stats. 97), as codified in Public Utilities Code section 383.5, and subsequently revised pursuant to this authority on the following dates: March 16, 2000, September 7, 2000, October 11, 2000, May 16, 2001, and April 3, 2002.*

# Table of Contents

## Chapter 1. General Provisions

1. Title.....	1
2. Authority .....	1
3. Interpretation .....	1
4. Effective Date of Guidelines .....	1
5. Substantive Changes to Guidelines .....	1
6. Non-substantive Changes to Guidelines .....	1
7. Definitions.....	2

## Chapter 2. The Existing Renewable Resources Account

1. Incorporation of Guidebook .....	3
2. Application and Funding .....	3
3. Approval of Funding Awards .....	3
4. Cancellation of Funding Awards.....	3
5. Funding Award Payments .....	3
6. Funding Award Invoicing .....	4
7. Random Audits.....	4
8. Reconsideration of Funding Awards and Funding Award Cancellations .....	5
9. Disputes of Funding Award Payments .....	5

## Chapter 3. New Renewable Resources Account

1. Incorporation of Guidebook .....	5
2. Application and Funding .....	6
3. Approval of Funding Awards .....	6
4. Cancellation or Reduction of Funding Award .....	6
5. Funding Award Payments .....	6
6. Funding Award Invoicing .....	7
7. Random Audits.....	7
8. Reconsideration of Funding Awards and Award Cancellations and Reductions ..	8
10. Disputes of Funding Award Payments .....	8
11. Subsequent Auctions .....	8

## Chapter 4. Emerging Renewable Resources Account

1. Incorporation of Guidebook .....	9
2. Application and Funding .....	9
3. Approval of Funding Awards .....	10
4. Cancellation of Funding Awards.....	10
5. Funding Award Payments .....	10
6. Funding Award Invoicing .....	10
7. Random Audits.....	11
8. Reconsideration of Funding Awards and Funding Award Cancellations .....	11
9. Disputes of Funding Award Payments .....	11

## Chapter 5. Customer-side Renewable Resource Purchases Account

A. Customer Credit Subaccount .....	11
1. Incorporation of Guidebook .....	12
2. Application and Funding .....	12
3. Approval of Funding Awards .....	12
4. Cancellation of Funding Awards .....	12
5. Funding Award Payments .....	12
6. Funding Award Invoicing .....	13
7. Random Audits .....	13
8. Reconsideration of Funding Awards and Funding Award Cancellations .....	13
9. Disputes of Funding Award Payments .....	14
B. Consumer Education Subaccount .....	15
1. Incorporation of Guidebook .....	15
2. Application and Funding .....	15
3. Approval of Funding Awards .....	15
4. Cancellation or Reduction of Funding Awards .....	15
5. Funding Award Payments .....	16
6. Funding Award Invoicing .....	16
7. Random Audits .....	16
8. Reconsideration of Funding Awards and Award Cancellations and Reductions .....	17
9. Disputes of Funding Award Payments .....	17

## Chapter 6. Reconsideration of Funding Awards, Funding Award Cancellations, and Registration

1. Committee Reconsideration .....	18
2. Commission Appeals .....	18

## Chapter 7. Extension of Funding Awards under the New Renewable Resources Account

1. Committee Petition .....	19
2. Commission Appeals .....	20

## Chapter 8. Disputes of Funding Award Payments

1. Accounting Office Review .....	22
2. Executive Office Review .....	22

## Chapter 9. Enforcement Action

1. Recovery of Overpayment .....	23
2. Fraud and Misrepresentation .....	23

# Chapter 1. General Provisions

## 1. Title

These Guidelines shall be known as the "Renewable Resource Trust Fund Guidelines" and may be referred to as the "Renewable Guidelines."

## 2. Authority

These Guidelines are adopted pursuant to Public Utilities Code section 383.5, subdivision (f), which authorizes the State Energy Resources Conservation and Development Commission to adopt guidelines governing programs funded with the Renewable Resource Trust Fund, created by Public Utilities Code section 445, subdivision (a).

## 3. Interpretation

Nothing in these Guidelines shall be construed to abridge the powers or authority of the Commission or any Commission designated committee as specified in Division 15 of the Public Resources Code, commencing with section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with section 1001.

## 4. Effective Date of Guidelines

These Guidelines shall be of no effect until approved by the Committee and adopted by the Commission at a publicly noticed meeting with no less than 30 days public notice.

## 5. Substantive Changes to Guidelines

Substantive changes to these Guidelines may be made upon the recommendation of the Committee with the approval of the Commission. Substantive changes shall take effect once adopted by the Commission at a publicly noticed meeting with no less than 10 days public notice.

## 6. Non-substantive Changes to Guidelines

Non-substantive changes to these Guidelines may be made upon the recommendation and approval of the Committee. Non-substantive changes shall take effect 10 days after the Committee has approved and publicly noticed the non-substantive changes. Non-substantive changes include, but are not limited to the following:

- a. Changes in the format of any invoicing, certification, reporting, or other form, the submission of which is required by these Guidelines, or changes in the information requested in the forms.

## 7. Definitions

- a. "Awardee" - An individual or entity granted a funding award pursuant to these guidelines.
- b. "Billing Month" - The period of time coinciding with a calendar month in which an awardee is entitled to receive a payment pursuant to the awardee's funding award.
- c. "Commission" - State Energy Resources Conservation and Development Commission. Also referred to as the California Energy Commission.
- d. "Committee" – The committee of the State Energy Resources Conservation and Development Commission charged with overseeing implementation of the Renewable Energy Program; currently the Environmental and Energy Infrastructure and Licensing Committee.
- e. "Funding Award" - A Commission grant of moneys from the Renewable Resources Trust Fund pursuant to these Guidelines.
- f. "Guidelines" - Renewables Resource Trust Fund Guidelines.
- g. "Registrant" - Any individual or entity that applies for and is granted registration as a renewable supplier, provider or wholesaler pursuant to these Guidelines.
- h. "Renewable Resource Trust Fund" - The fund created in the State Treasury pursuant to Public Utilities Code section 445, subdivision (a), comprised of the following accounts:
  - 1) The Existing Renewable Resources Account.
  - 2) New Renewable Resources Account.
  - 3) Emerging Renewable Resources Account.
  - 4) Customer-side Renewable Resource Purchases Account.
    - A) Customer Credit Subaccount.
    - B) Consumer Education Subaccount.
- i. "Substantive Changes" - Changes to the guidelines which affect an individual's or an entity's ability to qualify for awards made pursuant to these Guidelines from the Renewable Resource Trust Fund, or affect the payment amount of any awardee.

## Chapter 2. The Existing Renewable Resources Account

### 1. Incorporation of Guidebook

Volume I of the Commission's guidebooks, entitled "Existing Renewable Resources Account," as adopted in January 1998, and subsequently revised, is hereby incorporated by reference and made a part of these Guidelines.



## 2. Application and Funding

Eligible individuals and entities interested in receiving funding awards from the Existing Renewable Resources Account shall apply to the Commission as specified in Volume I of the Commission's guidebooks.

## 3. Approval of Funding Awards

Funding awards made pursuant to this chapter shall be deemed approved by the Commission once the awardee has been notified in writing of the awardee's eligibility and issued a registration number. Formal Commission approval of each individual funding award shall not be required.

## 4. Cancellation of Funding Awards

The Committee may cancel the funding award of any awardee that changes or otherwise modifies his or her basis for eligibility under Volume I of the Commission's guidebooks and no longer satisfies the requisite eligibility criteria. The Committee shall notify the awardee in writing of the basis for canceling the awardee's funding award, the effective date of the cancellation, and the terms and conditions for the repayment of any portion of the funding award the awardee was not otherwise entitled to receive. The written notice required herein shall be given at least 15 days in advance of the effective date of the cancellation to provide the awardee an opportunity to file a petition for reconsideration pursuant to Chapter 6 of these Guidelines. The award cancellation shall become final when formally approved by the Commission. The Commission may approve the cancellation as a consent calendar item at a regularly scheduled Business Meeting.

## 5. Funding Award Payments

The Commission intends to make monthly funding award payments to awardees within 60 days of the end of the billing month. Funding award payments shall not be made to an awardee in the event of any of the following:

- a. The Committee determines, pursuant to section 4 of this chapter, that the awardee is no longer eligible to receive a funding award; or
- b. The awardee fails to properly invoice the Commission's Accounting Office as specified in section 6 of this chapter; or
- c. A random audit conducted pursuant to section 7 of this chapter reveals an awardee's invoice submitted pursuant to section 6 of this chapter is overstated or otherwise unreasonable given awardee's nameplate production capacity, production history, etc.; or
- d. The awardee fails to repay the Commission for any overpayment the awardee received as specified in the written notice issued pursuant to section 7 of this chapter; or

- e. Based on an investigation conducted pursuant to section 2 of Chapter 9 of these Guidelines, the Committee determines that the awardee has misstated, falsified, or misrepresented information in applying for registration as a renewable supplier, in applying for a funding award, in invoicing for a funding award payment, or in reporting any information as required by these Guidelines.

## 6. Funding Award Invoicing

Invoices shall be submitted to the Commission's Accounting Office as specified in Volume 1 of the Commission's guidebooks. Invoices that are not complete, legible, or received by the due date specified will be returned to the awardee along with a written notice stating the reasons why the invoice was rejected.

An awardee that fails to properly invoice the Commission for a given billing month by the due date specified shall not receive payment for that billing month.

## 7. Random Audits

The Commission's Accounting Office or its authorized agents, in conjunction with Commission technical staff, may conduct random audits of any pending or previously submitted invoices submitted pursuant to section 6 of this chapter for the purpose of verifying the accuracy of any information included in the invoices. As part of any random audit an awardee may be required to provide the Accounting Office or its authorized agents with any and all information and records pertinent to verify the accuracy of any information included in the awardee's invoices. An awardee may also be required to open its business records for on-site inspection and audit by the Accounting Office or its authorized agents for purposes of verifying the accuracy of any information included in the invoices.

If an audit finds that an invoice has overstated an awardee's production or otherwise contains incorrect information, the Accounting Office will notify the awardee of its findings in writing within 30 days of completing the audit. If the audit is for a pending invoice, the written notice shall identify any overstated production or other incorrect information, the amount of production the awardee will be paid for, and any further action the Commission intends to pursue. If the audit is for a previously submitted invoice, the written notice shall identify the amount of any overpayment the awardee received and is obligated to repay, the terms and conditions of such repayment, and any further action the Commission intends to pursue. Further action the Commission may pursue includes, but is not limited to, additional audits or an investigation for fraud pursuant to Chapter 9 of these Guidelines.

## 8. Reconsideration of Funding Awards and Funding Award Cancellations

Any individual or entity that applied for but was not granted a funding award or whose funding award was cancelled may petition the Committee for reconsideration in accordance with the procedures set forth in Chapter 6 of these Guidelines.

## 9. Disputes of Funding Award Payments

Disputes concerning the payment of any portion of a funding award made pursuant to this chapter shall be resolved in accordance with Chapter 8 of these Guidelines.

#### 10. Record Retention

- a. Awardees shall keep all records relating to and verifying the accuracy of information stated in an invoice submitted pursuant to section 6 of this chapter for a period not less than three years after the end of the calendar year in which payment for the invoice is made.
- b. Awardees shall keep all records relating to and verifying the accuracy of information stated in a report submitted to the Commission pursuant to Volume 1 of the Commission's guidebooks for a period not less than three years after the end of the calendar year in which the report is submitted.
- c. Awardees shall keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

## **Chapter 3. New Renewable Resources Account**

#### 1. Incorporation of Guidebook

Volume 2 of the Commission's guidebooks, entitled "New Renewable Resources Account," as adopted in January 1998, and subsequently revised and augmented as Volumes 2A and 2B, is hereby incorporated by reference and made a part of these Guidelines.

#### 2. Application and Funding

Eligible individuals and entities interested in receiving funding awards from the New Renewable Resources Account shall apply to the Commission as specified in the auction solicitations issued pursuant to Volume 2 of the Commission's guidebooks.

#### 3. Approval of Funding Awards

Funding awards made pursuant to this chapter shall be considered for approval by the Commission upon the recommendation of the Committee. In the Committee's discretion, a publicly noticed Committee hearing may be held to review and recommend awards for Commission approval. Prospective awardee shall be notified in writing 10 business days in advance of a Committee hearing to review and recommend funding awards. The Committee may recommend conditions that affect the receipt or the continued receipt of a funding award.

#### 4. Cancellation or Reduction of Funding Award

The Committee may cancel the funding award, or any appropriate portion thereof, of any awardee that changes or otherwise modifies his or her basis for eligibility under Volume 2 of the Commission's guidebooks and no longer satisfies the requisite eligibility criteria, or that fails to satisfy any condition of the funding award.

The Committee shall notify the awardee in writing of the basis for canceling the awardee's funding award, the effective date of cancellation, and the terms and conditions for the forfeiture of any performance bond posted by the awardee or, if the awardee's facility is operational, the terms and conditions for the repayment of any portion of the funding award the awardee was not otherwise entitled to receive. The written notice required herein shall be given at least 15 days in advance of the effective date of the cancellation to provide the awardee an opportunity to file a petition for reconsideration pursuant to Chapter 6 of these Guidelines. The award cancellation shall become final when formally approved by the Commission. The Commission may approve the cancellation as a consent calendar item at a regularly scheduled Business Meeting.

## 5. Funding Award Payments

The Commission intends to make monthly funding award payments to awardees within 60 days of the end of the billing month. Funding award payments shall not be made to an awardee in the event of any of the following:

- a. The Committee determines, pursuant to section 4 of this chapter, that the awardee is no longer eligible to receive a funding award; or
- b. The awardee fails to properly invoice the Commission's Accounting Office as specified in section 6 of this chapter; or
- c. A random audit conducted pursuant to section 7 of this chapter reveals an awardee's invoice submitted pursuant to section 6 of this chapter is overstated or otherwise unreasonable given awardee's nameplate production capacity, production history, etc.; or
- d. The awardee fails to repay the Commission for any overpayment the awardee received as specified in the written notice issued pursuant to section 7 of this chapter; or
- e. Based on an investigation conducted pursuant to section 2 of Chapter 9 of these Guidelines, the Committee determines that the awardee has misstated, falsified, or misrepresented information in applying for registration as a renewable supplier, in applying for a funding award, in invoicing for a funding award payment, or in reporting any information as required by the guidelines.

## 6. Funding Award Invoicing

Invoices shall be submitted to the Commission's Accounting Office as specified in Volume 2 of the Commission's guidebooks. Incomplete or illegible invoices will be

returned to the awardee with a written notice stating the reasons why the invoice was rejected.

## 7. Random Audits

The Commission's Accounting Office or its authorized agents, in conjunction with Commission technical staff, may conduct random audits of any pending or previously submitted invoices submitted pursuant to section 6 of this chapter for the purpose of verifying the accuracy of any information included in the invoices. As part of any random audit an awardee may be required to provide the Accounting Office or its authorized agents with any and all information and records pertinent to verify the accuracy of any information included in the awardee's invoices. An awardee may also be required to open its business records for on-site inspection and audit by the Accounting Office or its authorized agents for purposes of verifying the accuracy of any information included in the invoices.

If an audit finds that an invoice has overstated an awardee's production or otherwise contains incorrect information, the Accounting Office will notify the awardee of its findings in writing within 30 days of completing the audit. If the audit is for a pending invoice, the written notice shall identify any overstated production or other incorrect information, the amount of production the awardee will be paid for, and any further action the Commission intends to pursue. If the audit is for a previously submitted invoice, the written notice shall identify the amount of any overpayment the awardee received and is obligated to repay, the terms and conditions of such repayment, and any further action the Commission intends to pursue. Further action the Commission may pursue includes, but is not limited to, additional audits or an investigation for fraud pursuant to Chapter 9 of these Guidelines.

## 8. Reconsideration of Funding Awards and Award Cancellations and Reductions

Any individual or entity that applied for but was not granted a funding award or whose funding award was cancelled or reduced may petition the Committee for reconsideration in accordance with the procedures set forth in Chapter 6 of these Guidelines.

## 9. Extension of Funding Awards

Awardees whose projects are required to be on-line by January 1, 2002 under the terms of the applicable auction solicitation, and are unable to do so because of circumstances beyond the developer's control, may petition the Committee for an extension of their funding awards pursuant to the petition procedures specified in Chapter 7 of these Guidelines.

## 10. Disputes of Funding Award Payments

Disputes concerning the payment of any portion of a funding award made pursuant to this chapter shall be resolved in accordance with Chapter 8 of these Guidelines.

## 11. Subsequent Auctions

The Commission, upon the recommendation of the Committee, may authorize subsequent auctions to encumber funds in the New Renewable Resources Account not otherwise allocated through prior auctions, to encumber funds that have reverted back to the New Renewable Resources Account due to canceled or reduced funding awards, or to encumber funds the Commission has reallocated to the New Renewable Resources Account from other accounts in the Renewable Resource Trust Fund. The Committee's recommendation for subsequent auctions shall be based on available funding, market conditions and the results of prior auctions. The Committee's recommendation may specify the schedule for conducting any subsequent auctions and the eligibility criteria for participating in the auctions. The eligibility criteria for subsequent auctions shall comport with the eligibility criteria specified in Volume 2 of the Commission's guidebooks.

## 12. Record Retention

- a. Awardees shall keep all records relating to and verifying the accuracy of information stated in an invoice submitted pursuant to section 6 of this chapter for a period not less than three years after the end of the calendar year in which payment for the invoice is made.
- b. Awardees shall keep all records relating to and verifying the accuracy of information stated in a report submitted to the Commission pursuant to Volume 2 of the Commission's guidebooks for a period not less than three years after the end of the calendar year in which the report is submitted.
- c. Awardees shall keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

# Chapter 4. Emerging Renewable Resources Account

## 1. Incorporation of Guidebook

Volume 3 of the Commission's guidebooks, entitled "Emerging Renewable Resources Account," as adopted in January 1998, and subsequently revised, is hereby incorporated by reference and made a part of these Guidelines.

## 2. Application and Funding

Eligible individuals and entities interested in receiving funding awards from the Emerging Renewable Resources Account shall apply to the Commission as specified in Volume 3 of the Commission's guidebooks.

### 3. Approval of Funding Awards

Funding awards made pursuant to this chapter shall be deemed approved by the Commission once the awardee has been notified in writing of the awardee's eligibility and issued an award confirmation. Formal Commission approval of each individual funding award shall not be required.

### 4. Cancellation of Funding Awards

The Commission's Accounting Office, in consultation with Commission staff, may cancel the funding award of any awardee that changes or otherwise modifies his or her basis for eligibility under Volume 3 of the Commission's guidebooks and no longer satisfies the requisite eligibility criteria. Prior to canceling any funding award the Accounting Office shall notify the awardee in writing of the basis for canceling the awardee's funding award and the effective date of the cancellation.

### 5. Funding Award Payments

The Commission intends to make funding award payments within 50 days of receipt of the invoices submitted pursuant to section 6 of this chapter. A funding award payment shall not be made to an awardee in the event of any of the following:

- a. The awardee fails to properly invoice the Commission's Accounting Office as specified in section 6 of this chapter; or
- b. A random audit conducted pursuant to section 7 of this chapter reveals the awardee's project was not completed as specified by the invoice, or supporting documentation, submitted pursuant to section 6 of this chapter; or
- c. Based on an investigation conducted pursuant to section 2 of Chapter 9 of these Guidelines, the Committee determines that the awardee has misstated, falsified, or misrepresented information in applying for a funding award, in invoicing for a funding award payment, or in reporting any information as required by these Guidelines.

### 6. Funding Award Invoicing

Invoices shall be submitted to the Commission's Accounting Office as specified in Volume 3 of the Commission's guidebooks. Invoices that are not complete, legible, or received by the date specified in the awardee's funding award confirmation will be returned to the awardee along with a written notice stating the reasons why the invoice was rejected.

An awardee that fails to properly invoice the Commission by the due date specified in the funding award confirmation shall not be paid for that funding award.

## 7. Random Audits

The Commission's Accounting Office or its authorized agents, in conjunction with Commission technical staff, may conduct random audits of any invoices submitted pursuant to section 6 of this chapter for the purpose of verifying the accuracy of any information included in the invoices, including project completion. As part of any random audit an awardee may be required to provide the Accounting Office or its authorized agents with any and all information and records pertinent to verify the accuracy of any information included in the awardee's invoices. An awardee may also be required to open its business records for on-site inspection and audit by the Accounting Office or its authorized agents for purposes of verifying the accuracy of any information included in the invoices.

If an audit finds that an invoice contains false or inaccurate information, the Accounting Office will notify the awardee of its findings in writing within 30 days of completing the audit. The written notice shall identify any action the Commission intends to pursue, including, but not limited to, additional audits or an investigation for fraud pursuant to Chapter 9 of these Guidelines.

## 8. Reconsideration of Funding Awards and Funding Award Cancellations

Any individual or entity that applied for but was not granted a funding award or whose funding award was cancelled may petition the Committee for reconsideration in accordance with the procedures set forth in Chapter 6 of these Guidelines.

## 9. Disputes of Funding Award Payments

Disputes concerning the payment of any portion of a funding award made pursuant to this chapter shall be resolved in accordance with Chapter 8 of these Guidelines.

## 10. Record Retention

Awardees shall keep all records relating to and verifying the accuracy of information stated in an invoice submitted pursuant to section 6 of this chapter for a period not less than three years after the end of the calendar year in which payment for the invoice is made.

# **Chapter 5. Customer-side Renewable Resource Purchases Account**

## **A. Customer Credit Subaccount**

### 1. Incorporation of Guidebook

Volume 4 of the Commission's guidebooks, entitled "Customer Credit Subaccount," as adopted in January 1998, and subsequently revised, is hereby incorporated by reference and made a part of these Guidelines.



## 2. Application and Funding

Eligible individuals and entities interested in receiving funding awards from the Customer Credit Subaccount shall apply to the Commission as specified in Volume 4 of the Commission's guidebooks.

## 3. Approval of Funding Awards

Funding awards made pursuant to this chapter shall be deemed approved by the Commission once the awardee has been notified in writing of the awardee's eligibility and issued a registration number. Formal Commission approval of each individual funding award shall not be required.

## 4. Cancellation of Funding Awards

The Committee shall cancel the funding award of any awardee that changes or otherwise modifies his or her basis for eligibility under Volume 4 of the Commission's guidebooks and no longer satisfies the requisite eligibility criteria. The Committee shall notify the awardee in writing of the basis for canceling the awardee's funding award, the effective date of the cancellation, and the terms and conditions for the repayment of any portion of the funding award the awardee was not otherwise entitled to receive. The written notice required herein shall be given at least 15 days in advance of the effective date of the cancellation to provide the awardee an opportunity to file a petition for reconsideration pursuant to Chapter 6 of these Guidelines. The award cancellation shall become final when formally approved by the Commission. The Commission may approve the cancellation as a consent calendar item at a regularly scheduled Business Meeting.

## 5. Funding Award Payments

The Commission intends to make monthly funding award payments to awardees within 60 days of the end of the billing month. Funding award payments shall not be made to an awardee in the event of any of the following:

- a. The Committee determines pursuant to section 4 of this Chapter 5.A., that the awardee is no longer eligible to receive a funding award; or
- b. The awardee fails to properly invoice the Commission's Accounting Office as specified in section 6 of this Chapter 5.A.; or
- c. A random audit conducted pursuant to section 7 of this Chapter 5.A. reveals the awardee's invoice submitted pursuant to section 6 of this Chapter 5.A. is overstated or otherwise unreasonable; or
- d. The awardee fails to submit to the Commission's Accounting Office additional information requested as part of a random audit conducted pursuant to section 7 of this Chapter 5.A.; or

- e. Based on an investigation conducted pursuant to section 2 of Chapter 9 of these Guidelines, the Committee determines that the awardee has misstated, falsified, or misrepresented information in applying for registration as a renewable provider, in applying for a funding award, in invoicing for a funding award payment, or in reporting any information as required by these Guidelines.

## 6. Funding Award Invoicing

Invoices shall be submitted to the Commission's Accounting Office as specified in Volume 4 of the Commission's guidebooks. Invoices that are not complete or legible will be returned to the awardee along with a written notice stating the reasons why the invoice was rejected.

## 7. Random Audits

The Commission's Accounting Office or its authorized agents, in conjunction with Commission technical staff, may conduct random audits of any invoices submitted pursuant to section 6 of this Chapter 5.A. for the purpose of verifying the accuracy of any information included in the invoices. As part of the audit, the Accounting Office may request that the awardee submit additional information for the purposes of verifying the accuracy of information included in the awardee's invoice. As part of any random audit an awardee may be required to provide the Accounting Office or its authorized agents with any and all information and records pertinent to verify the accuracy of any information included in the invoices. An awardee may also be required to open its business records for on-site inspection and audit by the Accounting Office or its authorized agents for purposes of verifying the accuracy of any information included in the invoices.

If an audit finds that an invoice contains false or inaccurate information, the Accounting Office will notify the awardee of its findings in writing within 30 days of completing the audit. The written notice shall identify any action the Commission intends to pursue, including, but not limited to, additional audits or an investigation for fraud pursuant to Chapter 9 of these Guidelines.

## 8. Reconsideration of Funding Awards and Funding Award Cancellations

Any individual or entity that applied for but was not granted a funding award or whose funding award was cancelled may petition the Committee for reconsideration in accordance with the procedures set forth in Chapter 6 of these Guidelines.

## 9. Disputes of Funding Award Payments

Disputes concerning the payment of any portion of a funding award made pursuant to this Chapter 5.A. shall be resolved in accordance with Chapter 8 of these Guidelines.

## 10. Record Retention

- a. Awardees shall keep all records relating to and verifying the accuracy of information stated in an invoice submitted pursuant to section 6 of this Chapter 5.A. for a period not less than three years after the end of the calendar year in which payment for the invoice is made.
- b. Awardees shall keep all records relating to and verifying the accuracy of information stated in a report submitted to the Commission pursuant to Volume 4 of the Commission's guidebooks for a period not less than three years after the end of the calendar year in which the report is submitted.

## B. Consumer Education Subaccount

### 1. Incorporation of Guidebook

Volume 5 of the Commission's guidebooks, entitled "Consumer Education Subaccount," as adopted in February 2000, and subsequently revised, is hereby incorporated by reference and made a part of these Guidelines.

### 2. Application and Funding

Eligible individuals and entities interested in receiving funding awards from the Consumer Education Subaccount shall apply to the Commission as specified in Volume 5 of the Commission's guidebooks and any solicitations issued thereunder.

### 3. Approval of Funding Awards

Funding awards made pursuant to this Chapter 5.B. shall be approved by the Commission and the Committee as specified in Volume 5 of the Commission's guidebooks.

### 4. Cancellation or Reduction of Funding Awards

The Committee may cancel the funding award, or any appropriate portion thereof, of any awardee that changes or otherwise modifies the basis for his or her award eligibility under Volume 5 of the Commission's guidebooks or any pertinent solicitation issued thereunder, or that fails to satisfy any condition of the funding award. The Committee shall notify the awardee in writing of the the basis for canceling the awardee's funding award, or any portion thereof, the effective date of cancellation, and the terms and conditions for the repayment of any portion of the funding award the awardee was not otherwise entitled to receive. The written notice required herein shall be given at least 15 days in advance of the effective date of the cancellation to provide the awardee an opportunity to file a petition for reconsideration pursuant to Chapter 6 of these Guidelines. The award cancellation shall become final when formally approved by the Commission. The Commission

may approve the cancellation as a consent calendar item at a regularly scheduled Business Meeting.

## 5. Funding Award Payments

Funding award payments shall be made as specified in Volume 5 of the Commission's guidebooks and any pertinent solicitations issued thereunder. Funding award payments shall not be made to an awardee in the event of any of the following:

- a. The Committee determines, pursuant to section 4 of this Chapter 5.B., that the awardee is no longer eligible to receive a funding award or portion thereof; or
- b. The awardee fails to properly invoice the Commission as specified in section 6 of this Chapter 5.B.; or
- c. A random audit conducted pursuant to section 7 of this Chapter 5.B. reveals the awardee's program or project, or portions thereof, was not completed as specified by the invoice or supporting documentation submitted pursuant to section 6 of this Chapter 5.B.; or
- d. The awardee fails to repay the Commission for any overpayment the awardee received as specified in the written notice issued pursuant to section 7 of this Chapter 5.B.; or
- e. Based on an investigation conducted pursuant to section 2 of Chapter 9 of these Guidelines, the Committee determines that the awardee has misstated, falsified, or misrepresented information in applying for a funding award, in invoicing for a funding award payment, or in reporting any information as required by these Guidelines.

## 6. Funding Award Invoicing

Invoices shall be submitted to the Commission as specified in Volume 5 of the Commission's guidebooks and pertinent solicitations issued thereunder. Invoices that are not complete, legible, or received by the dates specified in the awardee's funding award will be returned to the awardee along with a written notice stating the reasons why the invoice was rejected.

## 7. Random Audits

The Commission's Accounting Office or its authorized agents, in conjunction with Commission technical staff, may conduct random audits of any pending or previously submitted invoices submitted pursuant section 6 of this Chapter 5.B. for purposes of verifying the accuracy of any information included in the invoices. As part of any random audit an awardee may be required to provide the Accounting Office or its authorized agents with any and all information and records pertinent to verify the accuracy of any information included in the awardee's invoices. An awardee may also be required to open its business records for on-site inspection

and audit by the Accounting Office or its authorized agents for purposes of verifying the accuracy of any information included in the invoices.

If an audit finds that an invoice has overstated the amount of payment the awardee is eligible for or otherwise contains incorrect information, the Accounting Office will notify the awardee of its findings in writing within 30 days of completing the audit. If the audit is for a pending invoice, the written notice shall identify any overstated payment amounts or other incorrect information, the amount of payment the awardee will be paid, and any further action the Commission intends to pursue. If the audit is for a previously submitted invoice, the written notice shall identify the amount of any overpayment the awardee received and is obligated to repay, the terms and conditions of such repayment, and any further action the Commission intends to pursue. Further action the Commission may pursue includes, but is not limited to, additional audits or an investigation for fraud pursuant to Chapter 9 of these Guidelines.

#### 8. Reconsideration of Funding Awards and Award Cancellations and Reductions

Any individual or entity that applied for but was not granted a funding award or whose funding award was cancelled or reduced may petition the Committee for reconsideration in accordance with the procedures set forth in Chapter 6 of these Guidelines.

#### 9. Disputes of Funding Award Payments

Disputes concerning the payment of any portion of a funding award made pursuant to this Chapter 5.B. shall be resolved in accordance with Chapter 8 of these Guidelines.

#### 10. Record Retention

Awardees shall keep all records relating to and verifying the accuracy of information stated in any invoice submitted pursuant to section 6 of this Chapter 5.B. for a period not less than three years after the end of the calendar year in which payment for the invoice is made.

## **Chapter 6. Reconsideration of Funding Awards, Funding Award Cancellations, and Registration**

### 1. Committee Reconsideration

Any individual or entity that applied for but was not granted a funding award, whose funding award was cancelled or reduced, that applied for but was not granted registration as a renewable supplier, provider or wholesaler, or whose registration was revoked may petition the Committee for reconsideration. The petition for reconsideration shall be in writing and shall be submitted, together with any

supporting documentation, to the Committee at the following address within 15 days of receipt of the notice of funding award denial, cancellation, reduction, or registration denial or revocation.

Address: California Energy Commission  
Environmental and Energy Infrastructure and Licensing Committee  
1516 9th Street, MS-45  
Sacramento, CA 95814-5512

The petition shall specify the basis upon which the appeal is made, explain why the petitioner believes the funding award denial, cancellation, reduction, or registration denial or revocation is improper given the eligibility criteria for the funding award or registration, explain any supporting documentation filed with the petition, identify any legal authority or other basis supporting the petitioner's position, and identify the remedy sought.

Within 30 days of receipt of a complete petition the Committee, in its discretion, shall either issue a decision based on its consideration of the petition and the written response of Commission staff, or schedule a hearing to consider the petition. If a hearing is scheduled the petitioner shall be notified of the hearing date and any additional information the petitioner is directed to submit. This notice shall be given at least 15 days in advance of the Committee hearing date. The Committee may direct the petitioner and Commission staff to attend the Committee hearing to offer pertinent testimony.

The Committee shall provide the petitioner with a written decision on the petition within 30 days of holding the hearing. Should the petitioner disagree with the Committee's decision the petitioner may appeal the decision to the Commission pursuant to section 2 of this chapter.

## 2. Commission Appeals

Within 15 days of receipt of the Committee's decision, the appealing party shall file a letter of appeal stating why the Committee's decision is unacceptable. The letter of appeal, along with a copy of the petition for reconsideration, supporting documentation, and the Committee's written decision, shall be sent to the Commission's Public Adviser at the following address.

Address: California Energy Commission  
Public Adviser's Office  
1516 9th Street, MS-12  
Sacramento, CA 95814-5512

Within 15 days of receipt of the letter of appeal, the Public Adviser shall arrange for the appeal to be presented to the Commission at a regularly scheduled Business Meeting, and shall inform the appealing party in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The appealing party shall be responsible for presenting the appeal to the Commission during the Business Meeting. Unless the Commission determines otherwise during the

course of the Business Meeting, a determination on the appeal shall be rendered during the Business Meeting.

## **Chapter 7. Extension of Funding Awards under the New Renewable Resources Account**

### **1. Committee Petition**

Awardees whose projects are required to be on-line by January 1, 2002 under the terms of the applicable auction solicitation, and are unable to do so because of circumstances beyond the developer's control, may petition the Committee for an extension of their funding awards pursuant to Public Utilities Code section 383.5(c)(2)(B).

The petition for a funding award extension shall be in writing and shall be submitted, together with any supporting documentation, to the Committee at the following address.

Address: California Energy Commission  
Environmental and Energy Infrastructure Committee  
1516 9th Street, MS-45  
Sacramento, CA 95814-5512

The petition shall specify the reasons for the project's delayed on-line date, explain why the petitioner believes the delay resulted from circumstances beyond the petitioner's control, identify the reasonable efforts taken by the petitioner to bring the project on-line by the date specified in the applicable auction solicitation, identify the additional time needed to bring the project on-line, explain why this additional time is justified given the petitioner's circumstances, explain any supporting documentation filed with the petition, and identify any legal authority or other basis supporting the petitioner's position. The petition must also include a revised project schedule identifying new milestone completion dates for any milestones not passed as of the date of the petition.

Within 30 days of receipt of a complete petition the Committee, at its discretion, shall either issue a decision based on its consideration of the petition, or schedule a hearing to consider the petition. If a hearing is scheduled the petitioner and any other interested parties shall be notified of the hearing date and any additional information the petitioner is directed to submit. This notice shall be given at least 15 days in advance of the Committee hearing date. The Committee may direct the petitioner and Commission staff to attend the Committee hearing to offer pertinent testimony. At the Committee's discretion, a single hearing may be held to consider one or more petitions.

If a hearing is held, the Committee shall provide the petitioner and all other interested parties with a written decision on the petition within 30 days of holding the hearing.

The Committee will determine whether the petitioner used reasonable efforts to bring the project on-line by the date specified in the applicable auction solicitation, and whether there were circumstances beyond the petitioner's control that prevented the petitioner from bringing the project on-line by that date. The Committee's decision will also make recommendations regarding whether a funding award extension is appropriate, and if so, the length of the extension, and whether the funding award should be reduced or penalized, and if so, the amount or percentage of the reduction or penalty. The Committee's recommendations regarding the length of any funding award extension and the amount of any funding award reduction and penalty shall comport with the funding award extension and reduction criteria specified in Guidebook Volume 2 and the applicable auction solicitation. The recommended funding award reduction or penalty shall not be less than the funding award reduction or penalty specified in Guidebook Volume 2 or the applicable auction solicitation. The Committee's decision and recommendations shall become final when formally approved by the Commission. The Commission may approve the Committee's decision and recommendations as a consent calendar item at a regularly scheduled Business Meeting.

Should the petitioner and/or other parties disagree with the Committee's decision the petitioner and/or other parties may appeal the decision to the Commission pursuant to section 2 of this chapter.

## 2. Commission Appeals

Within 15 days of receipt of the Committee's decision, the appealing party shall file a letter of appeal stating why the Committee's decision is unacceptable. The letter of appeal, along with a copy of the petition for funding award extension, supporting documentation, and the Committee's written decision, shall be sent to the Commission's Public Adviser at the following address.

Address: California Energy Commission  
Public Adviser's Office  
1516 9th Street, MS-12  
Sacramento, CA 95814-5512

Within 15 days of receipt of the letter of appeal, the Public Adviser shall arrange for the appeal to be presented to the Commission at a regularly scheduled Business Meeting, and shall inform the appealing party in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The appealing party shall be responsible for presenting the appeal to the Commission during the Business Meeting. Unless the Commission determines otherwise during the course of the Business Meeting, a determination on the appeal shall be rendered during the Business Meeting.



## Chapter 8. Disputes of Funding Award Payments

### 1. Accounting Office Review

Within 15 days of receipt of a payment, the amount of which is disputed, or a notice from the Commission's Accounting Office indicating no payment will be made, the awardee must file a written dispute claim, together with any evidence supporting the awardee's position, to the Commission's Accounting Office at the following address.

Address: California Energy Commission  
Accounting Office  
1516 9th Street, MS-2  
Sacramento, CA 95814-5512

The claim shall identify the payment in dispute, the date on which payment was received or expected, an explanation of the evidence supporting the awardee's position, any legal authority or other basis supporting the awardee's position, and the amount of repayment sought. The Accounting Office will review the claim within 15 days of its receipt, determine its validity, and provide the awardee with a written decision supported by reasons. The written decision shall specify that portion of the claim, if any, determined to be valid, and the amount and date when repayment will be made. Should the awardee disagree with the determination of the Accounting Office the awardee may seek reconsideration pursuant to section 2 of this chapter.

### 2. Executive Office Review

Within 15 days of receipt of a written decision from the Accounting Office the awardee must prepare a letter of reconsideration stating why the written decision is unacceptable. The awardee shall send this letter, along with a copy of the original dispute claim, supporting documents, and the Accounting Office's written decision, to the Commission's Executive Director at the following address.

Address: California Energy Commission  
Office of the Executive Director  
1516 9th Street, MS-39  
Sacramento, CA 95814-5512

The Executive Director, or his or her designee, will review the letter of reconsideration within 30 days of its receipt, assess the Accounting Office's written decision, and provide the awardee with a written decision. The written decision shall specify whether the Accounting Office's determination shall be upheld, whether any portion of the awardee's original dispute claim is deemed valid, and the amount and date that any repayment will be made. Should the awardee disagree with the Executive Director's determination the awardee may appeal the determination to the Commission pursuant to section 3 of this chapter.

### 3. Commission Appeal

Within 15 day of receipt of the Executive Director's written determination, the awardee shall file a letter of appeal stating why the Executive Director's written decision is unacceptable. The letter of appeal, along with a copy of the original dispute claim, supporting documents, and the Accounting Office and Executive Director decisions, shall be sent to the Commission's Public Adviser at the following address.

Address: California Energy Commission  
Public Adviser's Office  
1516 9th Street, MS-12  
Sacramento, CA 95814-5512

Within 15 days of receipt of the written appeal the Public Adviser shall arrange for the appeal to be presented to the Commission at a regularly scheduled Business Meeting, and shall inform the awardee in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The awardee shall be responsible for presenting the appeal to the Commission during the Business Meeting. Unless the Commission decides otherwise during the course of the Business Meeting, a determination on the awardee's appeal shall be rendered during the Business Meeting.

## **Chapter 9. Enforcement Action**

### **1. Recovery of Overpayment**

The Committee, with the concurrence of the Commission, may direct the Commission's Office of Chief Counsel to commence formal legal action against any awardee or former awardee to recover any portion of a funding award the Committee determines the awardee or former awardee was not otherwise entitled to receive.

### **2. Fraud and Misrepresentation**

The Committee may initiate an investigation of any registrant or awardee which the Committee has reason to believe may have misstated, falsified or misrepresented information in applying for registration as a renewable supplier, provider or wholesaler, in applying for a funding award, in invoicing for a funding award payment, or in reporting any information as required by these Guidelines. Based on the results of the investigation, the Committee may take any action it deems appropriate, including, but not limited to, revocation of the registration as renewable supplier, provider or wholesaler, cancellation of the funding award, recovery of any overpayment, and with the concurrence of the Commission, recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law.